

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN (DETROIT)**

TARAS P. NYKORIAK,
Plaintiff,

CASE NO. 2:09-cv-11950-RHC-MKM

vs.
TRANS UNION, LLC;
Defendant.

Judge Robert H. Cleland
Magistrate Judge Mona K. Majzoub

**TRANS UNION, LLC'S ANSWER TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES**

Trans Union, LLC ("Trans Union"), by counsel, responds to Plaintiff's Complaint (the "Complaint") as follows. For the Court's convenience, Plaintiff's allegations are set forth verbatim with Trans Union's responses immediately following.

COMPLAINT

This is an action for damages and injunctive [sic] relief brought by an individual consumer against the defendant for violations of the federal fair credit reporting act (FCRA).

ANSWER:

Trans Union denies that the statements contained in this paragraph require a response from Trans Union.

PARTIES

1. Plaintiff, Taras P. Nykoriak resides in Detroit, Michigan.

ANSWER:

Trans Union states that it has insufficient knowledge at this time to admit or deny the allegations of this paragraph.

2. Plaintiff is a consumer as defined by the FCRA.

ANSWER:

Trans Union admits that Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1681a(c).

3. Upon information and belief, defendant, Trans Union LLC, is a consumer reporting agency as defined by the FCRA 1681A (F).

ANSWER:

Trans Union admits that it is a “consumer reporting agency” as that term is defined by the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*

JURISDICTION & FACTUAL ALLEGATIONS

4. This court has jurisdiction under the FCRA, and venue is proper as the plaintiff resides within district and relevant credit statutory law and case law permits litigation in the district where the consumer resides.

ANSWER:

Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

5. Defendant, Trans Union LLC, is a Delaware corporation, headquartered in Illinois, with registered agent in Michigan.

ANSWER:

Trans Union admits that it is a Delaware limited liability company with its principal place of business in Chicago, Illinois.

6. Plaintiff disputed incorrect & incomplete information in his credit report in rather

futile attempts to get the credit rating he deserves.

ANSWER:

Trans Union states that it has insufficient knowledge at this time to admit or deny the remaining allegations of this paragraph and, so stating, denies them.

7. Defendant has failed to investigate plaintiffs' credit accounts, and defendant has provided false information to creditors, thus causing **defamation [sic], financial injury, & intentional infliction of emotional distress**, under US Court of Appeals [sic], Ninth Circuit, No 00-15946, *Nelson vs. Chase Manhattan*.

ANSWER:

Trans Union denies the allegations contained in this paragraph. Further, Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

8. Defendant has failed to investigate plaintiffs [sic] Trans Union credit report, failed to initiate investigations, and failed to correctly report account status' on plaintiffs' [sic] credit report.

ANSWER:

Trans Union denies the allegations contained in this paragraph.

9. With the foregoing paragraphs incorporated & repeated, this has caused plaintiff to be denied credit, lost opportunities, and higher rates.

ANSWER:

Trans Union denies that Plaintiff's alleged damages were proximately caused by a violation of the FCRA by Trans Union.

10. Defendant, Trans Union LLC, has willfully and negligently failed to conduct reasonable investigations of plaintiffs' [sic] dispute, even as plaintiff provided such documentation to defendant - thus violating FCRA 1681i.

ANSWER:

Trans Union denies the allegations contained in this paragraph.

PLAINTIFF WAS DAMAGED BY SAID LACK OF ADEQUATE INFORMATION:

Plaintiff wherefore prays for judgement [sic] against defendant, in the amount of \$3,000.00 {Three Thousand Dollars), including an order of the court to remove the below accounts from Taras T. Nykoriak's credit profile:

Arrow Financial Services	[xxxx]3742
First Premier Bank	[xxxxxxxxxxxx]1480
GMAC	[xxxxxxx]6431
Litton Loan Servicing	[xxxx]1931

ANSWER:

Trans Union denies that Plaintiff is entitled to any of the relief requested from Trans Union. Further, Trans Union denies that Plaintiff's alleged damages were proximately caused by a violation of the FCRA by Trans Union.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim against Trans Union upon which relief may be granted.
2. Plaintiff's state law and common law claims are pre-empted by the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*
3. Trans Union's reports concerning Plaintiff were true or substantially true.

4. Trans Union has at all times followed reasonable procedures to assure maximum possible accuracy of its credit reports concerning Plaintiff.

5. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

6. Plaintiff's claims are barred, in whole or in part, by 15 U.S.C. §§ 1681h(e) and/or 1681(t).

7. At all relevant times, Trans Union acted within the absolute and qualified privileges afforded it under the FCRA, the United States Constitution, applicable State Constitutions and the common law.

8. Plaintiff's claims are barred, in whole, or in part, by the equitable theories of estoppel, waiver and laches.

9. Plaintiff has failed to take reasonable steps to mitigate his/her damages, if any.

10. Plaintiff's damages are the result of acts or omissions committed by Plaintiff.

11. Plaintiff's damages are the result of acts or omissions committed by the other parties over whom Trans Union has no responsibility or control.

12. Plaintiff's damages are the result of acts or omissions committed by non-parties to this action over whom Trans Union has no responsibility or control.

13. Any claim for exemplary or punitive damages asserted by Plaintiff violates Trans Union's rights under the Due Process and Excessive Fines clauses of the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the analogous provisions of applicable State Constitutions and under the First Amendment of the United States Constitution and the analogous provisions of applicable State Constitutions.

14. Trans Union reserves the right to assert additional defenses as may become apparent through additional investigation and discovery.

WHEREFORE, Defendant Trans Union, LLC, by counsel, denies that Plaintiff is entitled to judgment or to any of the relief sought, and respectfully requests that judgment be entered in its favor and against Plaintiff on all counts set forth in the Complaint, and that Trans Union, LLC be awarded its costs incurred in defending this action, along with such other relief as this Court deems equitable and just.

Respectfully submitted,

s/Laura K. Rang

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Lead Counsel for Trans Union, LLC

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CERTIFICATE OF SERVICE

I, **Laura K. Rang**, hereby certify that on the **27th day of May, 2009**, I electronically filed the foregoing **Trans Union, LLC's Answer To Plaintiff's Complaint And Affirmative Defenses** with the Clerk of the Court using the ECF system which will automatically send notification of such filing to the following counsel of record:

none

I further certify that on the **27th day of May, 2009**, a copy of the foregoing **Trans Union, LLC's Answer To Plaintiff's Complaint And Affirmative Defenses** was sent via U.S., First Class Mail, postage prepaid to the following non-ECF participants:

for Pro Se Plaintiff Taras P. Nykoriak:

Taras P. Nykoriak
P.O. Box 1706
Warren, MI 48090-1706

s/Laura K. Rang

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